IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

OP.No. 18891 of 2002(Y)
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PETITIONER:
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ST.JAMES HOSPITAL,CHALAKUDY,REPRESENTED
BY ITS DIRECTOR, FR.PAUL ELANKUNNAPUZHA.

BY ADV. SRI.J.JULIAN XAVIER
SRI.FIROZ K.ROBIN
SRI.RAJESH THOMAS

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY ITS SECRETARY, TAX DEPARTMENT,GOVT.OF KERALA, THIRUVANANTHAPURAM.

2. TAHSILDAR, MUKUNDAPURAM,IRINJALAKUDA.

BY GOVERNMENT PLEADER – ADV. SMT.R.BINDU

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 18891/2002

ORDER ON CMP NO.32191/2002 IN O.P.No. 18891/2002

DISMISSED.

02/02/2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE)

**APPENDIX**

PETITIONER'S EXHIBITS

EXT.P1 COPY OF THE TRUST DEED NO.647/TV/88/SRO EKM, DATED 09/11/1988 OF THE SUB REGISTRY OFFICE, ERNAKULAM.

EXT.P2 COPY OF THE CERTIFICATE DATED 30/08/1991 ISSUED BY THE INCOME DEPARTMENT.

EXT.P3 COPY OF THE CERTIFICATE DATED 08/02/1989 ISSUED BY THE 2ND RESPONDENT.

EXT.P4 COPY OF THE ASSESSMENT ORDER NO.G1/D.DIS 12800/94 DATED 09/01/97 ISSUED BY THE 2ND RESPONDENT.

EXT.P5 COPY OF THE NOTICE OF DEMAND NO.G1/D.DIS/12801/94 DATED 09/01/97 ISSUED BY THE 2ND RESPONDENT.

EXT.P6 COPY OF THE REPRESENTATION DATED 15/05/97 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P7 COPY OF THE JUDGMENT DATED 05/08/97 IN O.P.No. NO.13457/97.

EXT.P8 COPY OF THE NOTICE DATED 06/05/2000 ISSUED BY THE 1ST RESPONDENT.

EXT.P9 COPY OF THE NOTICE DATED 10/07/2001 ISSUED BY THE 1ST RESPONDENT.

EXT.P10 COPY OF THE ARGUMENT NOTE SUBMITTED ON 26/07/2001 BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

EXT.P11 COPY OF THE ORDER DATED 15/04/2002 OF THE 1ST RESPONDENT.

// TRUE COPY //

PA TO JUDGE

jg

**C.N.RAMACHANDRAN NAIR, J.**

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**O.P. No. 18891 of 2002**

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**Dated, this the 2nd day of February, 2007**

**J U D G M E N T**

Petitioner is challenging Ext.P11 order, where under Government on reference under Sec. 3(2) of the Building Tax Act declined exemption in respect of the hospital building owned by the petitioner. The learned counsel for the petitioner submits that the petitioner is engaged in religious and charitable activities, and in the hospital, petitioner is charging only moderate rates. However, it is a settled position that in order to qualify building tax exemption, building, if it is a hospital should be used for rendering free medical relief. Even though counsel contended that the Government has not stated detailed reasons for declining exemption. I do not think there is any scope for remitting the matter again to the Government, because, admittedly, petitioner is not rendering free medical relief in the hospital building, which alone entitles the building from exemption under Sec. 3(1)(b) of the Building Tax Act. This Court has so held in the decision in Medical Trust Hospital's case, reported in 2004 (2) KLT 139, which is confirmed by the Division

Bench and even by the Supreme Court. Even though, counsel contended that in some cases relief was granted, no such partial or proportionate exemption is contemplated for the building and exemption is available only if medical relief is granted free of cost, which means no collection should be made from any patient. In the circumstance, petitioner is liable to pay tax in respect of the hospital building. However, petitioner is granted 10 equal monthly installments to clear the arrears, first of which will be paid on or before 31/03/2007 and balance on or before last date of succeeding nine months.

This O.P is accordingly dismissed.

**(C.N.RAMACHANDRAN NAIR, JUDGE.)**

jg